

New York State Ethics Commission

Advisory Opinion No. 94-16: Interpreting Public Officers Law §§73(5) and 74 with respect to gifts.

Introduction

The State Ethics Commission ("Commission") frequently is asked to advise individual State officers and employees, State agencies and those outside government on the law governing gifts. Executive Law §94(15) authorizes the Commission to render advisory opinions on the requirements of Public Officers Law §§73, 73-a and 74. Pursuant to that authority, the Commission issues this opinion to guide both potential donors and recipients in the Commission's interpretation of the provisions of law applicable to gifts, Public Officers Law §§73(5) and 74.⁽¹⁾

In this opinion, the Commission endeavors to respond to many questions concerning the provisions governing the soliciting, offering or accepting of gifts.⁽²⁾ Through analysis of statutory language and development of representative examples, the opinion explains what is, and what has been, the status of the law on gifts.⁽³⁾ The Commission hopes to increase the awareness of State officers, employees, potential donors, and the public at large, and expects that the information and guidance provided will help recipients and donors conduct themselves lawfully.

The Commission encourages agency heads to inform State officers and employees, as well as those outside their agencies as may be appropriate, of the contents of this opinion, and to develop procedures to assure compliance (see Part VI). As with all circumstances in which there may be a question of the applicability of the State's ethics law, the first line of inquiry for State officers and employees is either their agency's ethics officer or an individual designated by their agency head to respond to staff inquiries. State officers and employees may also ask the Commission for its advice. The Commission issues both formal and informal opinions, although only formal opinions are binding on all parties.

Discussion

I. *The applicable law*

A. *Public Officers Law §73(5)*

The provision of law most directly applicable to gifts is Public Officers Law §73(5). It reads as follows:

No statewide elected official, state officer or employee, member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. No person shall, directly or indirectly, offer or make any such gift to a statewide elected official, or any state officer or employee, member of the legislature or legislative employee under such circumstances.

This section prohibits State officers and employees from directly or indirectly soliciting, accepting or receiving any gift worth \$75 or more under circumstances in which it could be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of official duties, or was intended to reward official action. It also prohibits any person from directly or indirectly offering or making such a gift to a State officer or employee. Thus, it is applicable both to a donor and a donee.

The section applies to all salaried officers and employees of State agencies.⁽⁴⁾ Non-paid and per diem members of boards, commissions or councils are specifically exempt from its provisions. However, the Commission requires that all such independent entities adopt a code of ethics to cover non-paid and per diem members. (See 19 NYCRR §932.5.)

A State officer or employee who knowingly and intentionally engages in any of the activities prohibited by §73(5) is subject either to (1) a civil penalty in an amount not to exceed \$10,000 per violation assessed by the Commission or, (2) if the matter is referred to the appropriate prosecutor, conviction of a class A misdemeanor, with a sentence of a fine not to exceed \$10,000 per violation and a possible sentence of imprisonment not exceeding one year. Donors of gifts in violation of this section are subject, upon referral by the Commission to the appropriate prosecutor, to conviction of a class A misdemeanor. (See Public Officers Law §73(14).)

B. Public Officers Law §74

Portions of the State's Code of Ethics, contained in Public Officers Law §74, are also applicable to gifts in certain circumstances. The applicable subdivisions are as follows:

2. Rule with respect to conflicts of interest. No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.
3. Standards.

....

- d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

.....

- f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

.....

- h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

These provisions apply to all State officers and employees, whether or not paid. They prohibit a State officer or employee from soliciting, accepting or receiving a gift of any value if to do so would constitute a substantial conflict with the proper discharge of his or her duties in the public interest (subdivision 2), or if it would cause the State officer or employee to violate any of the standards of §74(3).

In contrast with §73(5), which sets \$75 as the threshold value of a gift falling within its purview, the §74 proscriptions apply to all gifts, including those valued at less than \$75. State officers and employees who knowingly and intentionally violate any of the provisions of §74 are subject to disciplinary action; they may be fined, suspended or removed from office or employment by their appointing authorities in the manner provided by law.

II. *The concepts that guide the Commission*

The Commission has reviewed the federal regulations which govern the receipt of gifts by federal executive branch employees, New York City's guidelines and numerous other states' rules. The federal Office of Government Ethics' informal advisory letter 87x13 captures the Commission's sentiments:

We frequently hear Government employees claiming that they cannot be bought with a lunch and that to prohibit them from accepting an occasional meal from a person doing business with them impugns their integrity. We also are told that the private sector conducts business at such occasions and that Government employees must participate in the same kinds of activities in order to get the Government's position disseminated and understood. We sincerely hope and expect that Government employees cannot be bought for a lunch; we do not agree that for the Government to have such a restriction impugns the integrity of its employees nor that the entertainment standard for businesses dealing with one another is the standard that should be

adopted by a Government. The standards involved in public service are based on different considerations and include a concept of avoiding situations where an employee's integrity can be made an issue.⁽⁵⁾

The Commission agrees with the sentiment expressed in the federal gift regulations that, ". . . it is never inappropriate and frequently prudent for an employee to decline a gift offered by a prohibited source or because of his official position."⁽⁶⁾

III. *What is a gift?*

A "gift" includes any thing of value given to a State officer or employee. It may be in any form, such as money, service, loan, travel, meals,⁽⁷⁾ refreshments, entertainment, hospitality, promise, discount or forbearance; it may be provided in kind, or by purchase of a ticket, payment in advance or reimbursement for an expense that has been incurred. A gift does not include:

1. any thing for which a State officer or employee pays market value;
2. any thing for which the State has paid or secured by State contract;
3. rewards or prizes given to competitors in contests or events, including random drawings open to the public.

EXAMPLE: A State employee wins \$100 by placing second in a foot race open to the public sponsored by an entity regulated by his employing State agency. The employee may accept the prize money because the event is a competition open to the public.

EXAMPLE: A Director of Management Information Services is attending a job-related Statewide information technology conference with multiple sponsors, some of which do business with, or wish to do business with, the State, including her own State agency. At the conference, all participants, including private and State employees, have the opportunity to enter a raffle by dropping their business cards into a fishbowl from which a winner or winners are selected. The State employee's name is drawn from the raffle bowl; she has won a weekend at a Vermont inn, donated by a sponsor. The MIS director may keep the prize.

IV. *The value of a gift*

As noted above, §73(5), which authorizes civil and criminal penalties, is applicable only to gifts of \$75 or more. Therefore, it is necessary to determine the value of a gift.

In determining value, the Commission will first look to a gift's fair market value; that is, the retail cost of purchase. A State officer or employee who cannot ascertain the exact market value of a gift may estimate its market value by reference to the retail cost of similar items of like quality. The value of an item is not reduced by virtue of its being embossed or otherwise marked with a company logo or other identification or advertising.

EXAMPLE: A State employee who has been given an acrylic paperweight embossed with the corporate logo may determine its market value based on an observation that a comparable acrylic paperweight, not embossed with a logo, generally sells for about \$20.

The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket. If such benefits are provided and tickets are not sold, the value shall be the actual cost to the donor.

The offer of reciprocity, or even actual reciprocity, by the State employee would not serve to reduce the gift's value.

The Commission is aware that a donor could give multiple gifts, with each worth less than \$75, to attempt to avoid the Public Officers Law §73(5) threshold.⁽⁸⁾ The Commission concludes that a donor's giving of a combination of two or more gifts to any State employee,⁽⁹⁾ or a State employee's soliciting or receiving such combination, during any twelve-month period, where the gifts individually are worth less than \$75 but in the aggregate are equal to or exceed a value of \$75 meets the statutory threshold. Such a twelve month period is a reasonable time over which this measurement can be made. Thus, §73(5) could be triggered by multiple gifts even though each was less than \$75.

EXAMPLE: The award of a State contract for certain commodities will be announced in June. The potential vendors submit their bids in January. Between January and May, the sales representative of the business which wishes to win the contract treats the State agency's purchasing officer to 3 lunches, valued at \$10 each, and a dinner and concert valued at \$60 after which the State employee promises that next time they go out it will be "my treat." The Commission would value the gifts in excess of \$75. The State employee should pay his or her own way each time, instead of relying on a reciprocal event, which may not occur, to reduce the value or even eliminate the entire value.

EXAMPLE: The business in the preceding example wins the contract and its service representative and the program director of the State agency have lunch together about twice per month. At these lunches, they discuss how the work under the contract is progressing. The vendor's representative always pays for the State employee's lunch, which usually costs about \$9. If the value of the lunches cumulatively reaches \$75 in a one-year period, a violation of §73(5) will occur.

EXAMPLE: A private corporation sponsors a golf outing for its customers and invites several employees of State agencies with which it does business. During the day, the sponsor provides a brunch valued at \$20, free greens fees valued at \$55, a golf visor with company logo valued at \$8 and a post-game cocktail reception with free liquor and food valued at \$30. Although each item is individually valued at less than \$75, the Commission would view the day's outing as a single gift worth more than \$75.

V. Distinguishing lawful from unlawful gifts

In general, the Commission considers on a case-by-case basis the circumstances surrounding the offering, solicitation, or receipt of a gift, as well as its value, to determine whether it is permissible under the Public Officers Law. Two of the most important factors are the identity of the donor and the relationship of the donor to the State officer or employee and his or her State agency.

In applying this case-by-case analysis, the Commission has developed and adopted certain guidelines, which are set forth below.

A. Gifts solicited by State officers or employees

The Commission conceives of few, if any, circumstances in which the solicitation by a State officer or employee in his or her official capacity of a personal gift of any value would be appropriate behavior or be authorized by the provisions of Public Officers Law §74.

B. Impermissible gifts from "disqualified sources"

The Commission concludes that, with limited exceptions, gifts from certain sources can *per se* be inferred to be intended to influence or reward official action. They are, therefore, prohibited by §73(5) if valued at \$75 or more.⁽¹⁰⁾ Consequently, as a general rule, a "disqualified source" should not, directly or indirectly, offer or give a gift of \$75 or more, nor should a State officer or employee, directly or indirectly, solicit or accept such a gift, from a disqualified source.

For these purposes, a disqualified source is an individual who, on his or her own behalf or on behalf of a non-governmental entity, or a non-governmental entity on its own behalf which:

1. is regulated by, or regularly negotiates with, appears before other than in a ministerial matter, does business with, seeks to contract with or has contracts with the State agency with which the State officer or employee is employed or affiliated; or
2. lobbies or attempts to influence action or positions on legislation or rules, regulations or rate-making before the State agency with which the State officer or employee is employed or affiliated; or
3. is involved in litigation, adverse to the State, with the State agency with which the State officer or employee is employed or affiliated, and no final order has been issued; or
4. has received or applied for funds from the State agency with which the State officer or employee is employed or affiliated, including participation in a bid on a pending contract award, at any time during the previous year up to and including the date of the proposed or actual receipt of the gift;⁽¹¹⁾ or
5. seeks to contract with or has contracts with a State agency other than the agency with which the State officer or employee is employed or affiliated when the officer or employee's agency is to receive the benefits of the contract.

C. Impermissible indirect gifts: gifts to family, friends, charities, etc.

The Commission concludes that a gift that could not be given to a State officer or employee is impermissible when it is made with the officer or employee's knowledge and acquiescence, and

is solicited, accepted, or received by, or given to (1) his or her parent, sibling, spouse, child, relative or friend because of that person's relationship to the State officer or employee, or (2) any other person or entity, including a charitable organization, on the State officer or employee's designation or recommendation, or on his or her behalf.

EXAMPLE: A State employee, who must decline the gift of a telephone answering machine given to him for his personal use by a disqualified source, may not, on the source's suggestion or otherwise, suggest the machine be given to a specific, or one of several, charities he names.

EXAMPLE: A disqualified source offers to contribute \$200 to the Red Cross upon the request of a State employee to honor the employee's 20 years of State service. The gift must be declined since it could not be given to the employee.

D. *Certain permissible gifts*

The Commission recognizes that there are common situations when a State officer or employee may be offered or receive a thing of value which should not be considered a violation of §73(5) or §74. The following may be accepted notwithstanding any of the previous prohibitions.

1. An invitation to attend occasional personal, family or private events or functions with no or a *de minimis* nexus to the State, where the State employee receives only that received by other invitees.
2. Any thing given by a person or entity with a family or personal relationship with the State officer or employee when the circumstances make it clear that it is that personal relationship, rather than the recipient's State position, that is the primary motivating factor. In determining motivation, the following factors shall be among those considered: (a) the history of the relationship between the donor and the recipient, including whether or not items have previously been exchanged; (b) whether the item was purchased by the donor; (c) whether the donor at the same time gave the same or similar items to other State officers and employees. The giving of an item shall not be considered to be motivated by a family or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client.
3. Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars.
4. Presents which are modest, reasonable and customary, given on special occasions, such as marriage, illness, or retirement.
5. Awards and plaques which are publicly presented in recognition of State service or non-job-related service to the community. However, awards or plaques accepted and valued at more than \$75 presented in recognition of job-related State service by a disqualified source shall become the property of the State of New York. ⁽¹²⁾

The value of a plaque shall be the cost of the basic materials and shall not include the cost of the inscription.

EXAMPLE: The YWCA recognizes a State officer who volunteers in her off-hours as a literacy volunteer and presents her with an engraved plaque. She may accept it, regardless of value.

EXAMPLE: A lobbyist presents the same State officer with a carved figurine with materials valued at more than \$75 in recognition of her efforts related to agency actions which the lobbyist favors. The figurine must become the property of the agency. If the materials were worth less than \$75, the individual would be allowed to keep it herself.

6. Meals received when a State officer or employee serves as a participant or speaker in a job-related professional or educational program, and meals are made available to all participants.

EXAMPLE: A State employee whose job it is to educate the public on aspects of the law may accept breakfast from an association which lobbies the employing State agency when the employee is speaking at or attending a seminar sponsored by the association and the purpose of the seminar is to inform about the law.

7. Modest items of food and refreshments, such as soft drinks, coffee and doughnuts, offered other than as part of a meal.

EXAMPLE: A vendor hosts an annual reception at a hotel and invites State employees from agencies with which the vendor does business to attend without charge. State officers and employees may attend and accept the refreshments offered if they are modest and do not include a meal.

8. An invitation to a statewide elected official or to a State agency head to attend a function or event in his or her official capacity sponsored by any person or organization.⁽¹³⁾ The elected official or agency head may designate a staff member to attend in his or her place. Such events should be those that would normally appear on such elected official or agency head's work schedule and would likely be publicized. The purpose of attendance must be appropriate to the performance of the attendee's official duties or to permit the attendee to perform a ceremonial function appropriate to his or her official position.

EXAMPLE: The commissioner of a State agency is invited in his official capacity to represent the agency at a fund raising dinner sponsored by a charity, where the face value of the tickets is \$500. The commissioner designates a staff person to attend as his representative. It is not necessary for the staff person to have a speaker's role, to sit on the dais or appear on the program to be able to attend the dinner. Attendance is allowed because the attendee is an individual designated by a statewide elected official or agency head to represent him or her.

9. Under certain circumstances, a State officer or employee may receive or accept meals, entertainment or hospitality valued at \$75 or more from a disqualified source. Such a gift is permissible when the appearance, attendance, presence or participation of the State

officer or employee is for a State agency purpose and relates to his or her official duties.⁽¹⁴⁾ However, under no circumstances may travel or lodging be included.

When a State agency determines that an employee's attendance at an event is for a State agency purpose because it will further agency programs and operations, the employee may accept an unsolicited gift from a sponsor, even from a disqualified source, of free attendance at all or part of a widely attended gathering of mutual interest to a number of parties. A gathering is "widely attended" if it is open to members from throughout a given industry or profession, or if those in attendance represent a range of persons interested in a given matter. "Free attendance" may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all in attendance as an integral part of the event. When others in attendance will generally be accompanied by spouses, the State agency may authorize the State employee to accept a sponsor's invitation to an accompanying spouse to participate in all or a portion of the event at which the employee's free attendance is permitted. Travel expenses, lodging, entertainment collateral to the event, or meals taken other than in a group setting with all others in attendance may not be included as part of the gift, either to the employee or the employee's spouse.

For a State agency to find that an agency purpose is served by a State employee accepting free attendance at a widely attended event, the agency should conclude that its interest in the employee's participation outweighs the likelihood that such participation will actually or apparently improperly influence the employee in the performance of his or her official duties. A number of factors should be considered, including: the nature of any pending matter affecting the donor's interest, the importance of the event to the agency, the significance of the State officer or employee's role in the event, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the gift.

EXAMPLE: A contractor whose firm is suing the State in relation to a contract let by a State agency may not pay for a dinner and a show for an employee of that State agency. However, it may invite the same employee to attend a conference and visit a contractor-sponsored "hospitality room" featuring beverages and food if all other conference participants are invited or are permitted to attend.

EXAMPLE: An organization representing various providers of services lobbies the State Legislature and many State agencies. The organization hosts a reception and invites State legislators, their staffs, State officials and people in the industry. An employee of one of the State agencies the group lobbies may attend as long as she did not solicit the invitation and the invitation is extended to others outside her agency.

EXAMPLE: A law firm selected by a State agency (pursuant to approved bidding procedures) to perform legal services sponsors an event to celebrate the success of a project on which it worked. The celebration includes dinner and tickets to a ballet performance. Neither State employees nor their guests may accept the invitation to attend

for free since the donor is a disqualified source and the invitees are limited to those involved in a discrete State contract.

EXAMPLE: An association sponsors an annual reception, dinner and, on the following day, a conference, including seminars of interest to the association members and employees of a number of State agencies which are lobbied by the organization. The State employees may attend the reception, dinner and conference, as long as they did not solicit the invitation and the events are open to a broad audience. They may not accept travel or lodging associated with any of the events from the association.

EXAMPLE: A State agency is in the process of developing a Request for Proposal ("RFP") to purchase computer equipment. A computer vendor, which will be eligible to bid on the RFP, offers to pay for the agency's management information services director's travel expenses, hotel accommodations and meals to show her the vendor's latest technology at an informational training session. The director must decline the offer.

VI. *Avoiding violations*

A. *Responsibilities of agency heads*

State agency heads have an affirmative duty to take reasonable steps to assure that officers and employees of their agencies comply with the minimum standards of all provisions of the ethics law and the Commission's opinions. Executive Law §94(9)(j) authorizes the Commission to advise and assist any State agency in establishing rules and regulations relating to possible conflicts between private interests and official duties of present and former State officers and employees. A number of State agencies have done so, and the Commission is available to help develop or revise such codes.

Whether or not a State agency develops a code to address its particular needs, the Commission urges agency heads to take the following steps to assure accountability for compliance with the foregoing opinion relating to gifts:

1. communicate clearly and frequently to agency officers and employees, vendors, prospective vendors, regulated parties and any one else with an interest in agency actions, the Public Officers Law and the agency's code, if any, concerning gifts;
2. establish procedures by which agency officers and employees either (a) seek prior approval of the receipt of gifts or, (b) report them after the fact and for approval; and
3. consult with the Commission to resolve any outstanding issues on gifts.

B. *Responsibilities of officers and employees*

State officers and employees who are offered a gift should, if required by the agency or if they desire a ruling, consult with the agency's ethics officer or other official designated by the agency head to ascertain whether it is permissible to accept it. Otherwise, they should report the gift after the fact for approval. The ethics officer or other designated official should apply standards no less restrictive than those contained in this opinion. If it is determined that the acceptance of a

gift was inappropriate, either under Public Officers Law §§73(5), 74 or the agency's standards, the State officer or employee should be directed to return the gift to the donor or pay the donor its market value.

Preferably, a State officer or employee would not accept any gift without seeking prior approval. However, approval by a State agency is not binding on the Commission in any later investigation or proceeding. Were an impermissible, unsolicited gift accepted, it could be a mitigating factor in the resolution of such a proceeding if the State officer or employee had sought advice from the proper agency official on his or her own initiative and promptly complied with the determination. In other words, the return of a gift by a State officer or employee upon the advice of the agency, in accordance with the agency's procedures and this opinion, may mitigate the possible penalty, depending on the circumstances.

VII. *Binding effect*

Pursuant to Executive Law §94(15), an opinion rendered by the Commission, until and unless amended or revoked, shall be binding on the Commission.

Concur:

Joseph M. Bress, Chair

Barbara A. Black

Angelo A. Costanza

Robert E. Eggenschiller, Members

Dated: August 10, 1994

Endnotes

1. The Commission does not address in this opinion the concept of gifts given to a State agency rather than to individual State officers or employees. Examples not discussed would include public/private sector cooperative efforts such as businesses contributing funds in support of a particular State agency event; admission passes to private sector events received and distributed by a State agency in return for a State employee's participation in an event [*see* [Advisory Opinion No. 90-9](#)]; and, donations to a State agency to promote an agency purpose [*see* [Advisory Opinion No. 92-1](#)].

2. While the same legal provisions apply to members of the Legislature and legislative employees, the Legislative Ethics Committee has the authority to interpret these provisions with respect to those individuals. The Chief Administrator of the Courts had adopted different rules with respect to the receipt of gifts appropriate to the judicial branch.

3. The examples included are meant only to clarify the particular rule or premise contained in the text that precedes them. They do not include all possible legal and ethical ramifications of the fact situations presented.

4. The term "state agency" is defined as "any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state." (§73[1][g])

For purposes of this opinion, the term "state officers and employees" includes the four statewide elected officials (Governor, Lieutenant Governor, Attorney General and Comptroller).

5. Taken from "Memorandum issued October 23, 1987 from Donald E. Campbell, Acting Director to Designated Agency Ethics Officials, Inspectors General, General Counsels and Other Interested Persons Regarding Acceptance of Food and Refreshments by Executive Branch Employees" interpreting the federal regulations then in effect, Part 735 of 5 C.F.R. Those regulations have been updated and now appear at 5 C.F.R. 2635. We believe the perspective articulated still is prevailing.

6. 5 C.F.R. Part 2635.204.

7. As the federal Office of Government Ethics noted in its informal opinion 87x13:

We have heard in many of our training sessions that individuals claim to have worked together so long that they have become personal friends and that the meals offered by the nongovernment individual to the Government employee are based upon that relationship. . . . What we frequently find, however, is that the meals are still used as a business deduction by the nongovernment individual. In that case, these are not gifts of personal friendship, they are business expenses. Further, even though the personal relationship may exist, certain Government employees are in such conflict-sensitive positions that the perception of an improper gift will still be present. In those cases, we would hope that the Government employee and the prohibited source/"friend" would recognize this and both strive to avoid creating any appearance of impropriety on the part of the Government employee by simply enjoying each other's company without involving gifts.

8. The Commission notes that State officers and employees who file financial disclosure statements pursuant to Public Officers Law §73-a already report each source of gifts in excess of \$1,000 received during the reporting period by the individual, his or her spouse and unemancipated children. [Item 9]

9. or to a friend, family member or designated recipient as described in Part V. C, below.

10. Gifts from one of these sources valued at less than \$75 (whether as a single gift or gifts in the aggregate) are not *per se* impermissible. They are subject to the analysis described above under §74 to determine whether or not they may be accepted.

11. These four items track the definition of "disqualified source" in Commission regulations governing the receipt of honoraria and travel expense reimbursement [19 NYCRR Part 930].

12. An activity is "job related" if it is undertaken as part of the State officer's or employee's duties, or the information conveyed through the activity draws in large part on ideas or official data gathered on the job or the subject of the activity is a particular job assignment, agency policy, program or operation.

13. If the invitation includes travel or lodging expenses that are to be reimbursed, the requirements of 19 NYCRR §930.6 must be met.

14. Attendance at events at which the activities are substantially recreational in nature shall not be considered to be for a State agency purpose or related to an employee's official duties